

COLUSA COUNTY SUPERIOR COURT

LOCAL RULES

REVISED AND EFFECTIVE JANUARY 1, 2003

COLUSA COUNTY SUPERIOR COURT

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SECTION 1 GENERAL RULES

RULE 1.01 CITATION OF RULES

These Rules shall be known and cited as the "Local Rules of Court" for the Colusa County Superior Court.
(Amended, effective 1/1/00)

RULE 1.02 EFFECTIVE DATE OF RULES

These Rules shall take effect on January 1, 2003.
(Amended, effective 1/1/03)

RULE 1.03 EFFECT OF RULES

These Rules shall, on their effective date, supersede all local court rules previously adopted.
(Amended, effective 7/1/97)

RULE 1.04 CONSTRUCTION AND APPLICATION OF RULES

These Rules shall be construed and applied in such a manner as not to conflict with the California Rules of Court and shall be liberally construed to facilitate and promote the business and administration of justice of the Superior Court. These Rules do not apply to Small Claims Division actions or proceedings unless the text of a specific rule otherwise indicates.

The Executive Officer, shall be the official publisher of these Rules and shall maintain a set of the Rules in the clerk's offices for public inspection and shall make available copies for sale at a reasonable fee.
(Amended, effective 1/1/00)

RULE 1.05 DEFINITIONS OF WORDS USED IN THESE RULES

COLUSA COUNTY SUPERIOR COURT

- (A) The definitions set forth in the California Rules of Court, Rule 249(c), shall apply to these Rules with equal force and for all purposes, unless the context or subject matter otherwise requires.
- (B) The word "person" shall include and apply to corporations, firms, associations, and other entities, as well as natural persons.
- (C) The word "affidavit" includes declaration and "declaration" includes affidavit.
- (D) The use of the masculine, feminine, or neuter genders shall include the others.
- (E) The word "court" shall mean the Superior Court of the State of California in and for the County of Colusa. It shall include any judge, or temporary judge appointed or elected to the court and any judge duly assigned to the court.
- (F) The word "judgment" includes and applies to any judgment, order or decree from which an appeal lies.
(Amended, effective 7/1/01)

RULE 1.06 AMENDMENT, ADDITION, OR REPEAL OF RULES

These Rules may be amended or repealed, and new Rules may be added by a majority vote of the judges of the court.
(Amended, effective 1/1/00)

RULE 1.07 TIMELY APPEARANCE OF COUNSEL AND REQUIRED NOTIFICATION

- (A) Except as set forth herein, once an attorney has made a general appearance in any matter, civil or criminal, that attorney shall appear in the department to which the matter has been assigned at or before the time set for any proceeding in that matter.
- (B) Except as set forth herein, once the attorney appears on a matter, the attorney shall not leave the department to which the matter has been assigned until the matter has been called and all proceedings scheduled for that matter have concluded.
- (C) However, the attorney may appear at or before the start of any calendar to which his or her matter is assigned to notify the court the attorney will be late due to an appearance in another department. Counsel may also seek

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approval of the court to leave the court prior to the conclusion of the matter assigned to one department in order to appear in matters set in the other department.

- (D) An attorney shall not be late for a court appearance or fail to appear at a court appearance except for good cause shown.
- (E) If counsel cannot be present at or before the time the matter is set, counsel shall notify the clerk of the bench officer who normally sits in the assigned department prior to the time the matter is set. Counsel shall also inform the clerk of the reason for his or her late appearance and an estimated time of arrival. The clerk shall notify the bench officer to whom the matter is assigned. It shall be deemed good cause if counsel has conflicting court appearances and complies with the notice requirements of this Rule.
- (F) Violation of this Rule may subject the attorney to sanctions pursuant to Rules 5.09 and 13.01 of these local Rules.

(Amended, effective 7/1/01)

RULE 1.08 REQUIRED ATTORNEY NOTIFICATION FOR UNOPPOSED AND DROPPED MATTERS

- (A) If an attorney will not oppose a motion filed by opposing counsel, that attorney shall promptly so notify opposing counsel and the clerk of the bench officer before whom the matter is set.
- (B) If an attorney has calendared a proceeding and decides to request the matter be dropped from calendar, the attorney shall promptly notify opposing counsel and the clerk of the bench officer before whom the matter is set.
- (C) Violation of this Rule may subject the attorney to sanctions pursuant to Rules 5.09 and 13.01 of these local Rules.

(Adopted 1/1/00)

RULE 1.09 GENERAL POLICY RE: COURTROOM DECORUM

- (A) Courtroom Decorum rules have been adopted to foster orderly proceedings and respect for the Constitution of the United States, the Constitution of the State of California, the laws of this State, and the Superior Court.
- (B) The rules of Courtroom Decorum set forth herein shall apply in all Superior Court proceedings unless a judicial officer orders otherwise in a particular

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circumstance. A judicial officer, upon appropriate application in a particular case, may waive the application of any particular rule or may impose additional rules applicable to such case.

(C) Each attorney who appears in court should:

- (1) Pursuant to Business and Professions Code §6068(b) "maintain the respect due to the courts of justice and judicial officers."
- (2) Be polite and considerate toward opposing counsel, opposing parties, witnesses, and members of the court's staff.
- (3) Be familiar with the rules and guidelines set forth in this section as well as other applicable statutes and rules of conduct, ethics, and professionalism.
- (4) Make reasonable efforts to advise clients, witnesses, and others accompanying them of these rules, and make a reasonable attempt to see that such persons abide by these rules.

(Adopted 7/1/01)

RULE 1.10 COURTROOM ATTIRE

All attorneys, litigants, witnesses and spectators shall be required to dress and conduct themselves in a manner consistent with the traditional dignity of the Superior Court.

(A) All persons in the courtroom should dress in a manner that is not offensive or distracting to others of usual sensibilities. Counsel shall so instruct parties they represent, witnesses they call and persons accompanying them. No persons shall appear in court without a shirt, barefoot or with a bare midriff. The following shall not be worn in court: sunglasses, hats, shorts, tank tops, or any clothing that displays inappropriate words or pictures.

Bailiffs will remove any person from court who violates this rule. This rule does not limit the power of any judicial officer to further prescribe appropriate attire in the courtroom.

(Adopted 7/1/01)

RULE 1.11 GENERAL COURTROOM BEHAVIOR

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Persons in the courtroom shall not:

- (A) Talk to clerks when court is in session, except conversation that may be necessary in relation to the matter at that moment before the court.
 - (B) Converse with anyone in a manner that is distracting to the proceedings then before the court.
 - (C) Eat, drink, chew gum, or read newspapers.
 - (D) Visibly or audibly display approval or disapproval, agreement or disagreement with any testimony, ruling, or statement of the court, counsel, or a witness.
 - (E) Communicate in any way with a prisoner.
- (Adopted 7/1/01)

RULE 1.12 COMMUNICATIONS TO COURT OR JURY

- (A) Counsel shall instruct their staff, the parties they represent, any associates of such parties who may attend court, and the witnesses they call that they shall have no communication with the Court touching upon any subject of the pending litigation, except on the record with all counsel or parties appearing in propria persona present.
- (B) Counsel shall instruct the parties that they represent, any associates of such parties who may attend court, and the witnesses they call that they shall have no communication with any juror or alternate juror.
- (C) The Court shall promptly disclose any violation of the rule set forth in paragraph (A) to all parties. If the Court becomes aware of a violation of the rule set forth in paragraph (B), it shall promptly disclose such fact to all parties.

(Adopted 7/1/01)

RULE 1.13 TRAVERSING THE WELL

Persons in the courtroom should not traverse the area between the bench and counsel table, except with the express approval of the Court. Counsel shall so instruct their clients, witnesses they call, and persons accompanying them.

(Adopted 7/1/01)

RULE 1.14 EXAMINATION FROM COUNSEL TABLE

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Counsel, and parties appearing in propria persona, shall remain at a lectern or behind the counsel table when examining a witness. During trial, counsel shall not exhibit familiarity with witnesses, parties or other counsel, nor address them by use of first names (except children).

(Adopted 7/1/01)

RULE 1.15 APPROACHING A WITNESS

Unless directed otherwise by the Court, a party shall request permission from the Court before approaching a witness for any purpose.

(Adopted 7/1/01, Renumbered 1/1/03)

RULE 1.16 OBJECTIONS

When making an objection, counsel should:

- (A) Only state the legal ground for the objection unless the Court permits further comment.
- (B) Address the Court, and not opposing counsel or the witness.
- (C) Not interrupt a question unless necessary to protect a client's rights or if the partial question is patently objectionable.

(Adopted 7/1/01, Renumbered 1/1/03)

SECTION 2 ADMINISTRATIVE MATTERS

RULE 2.01 SUPERVISION OF THE BUSINESS OF THE COURT

- (A) The judicial business of each court shall be supervised by its Presiding Judge, with the management assistance of the Executive Officer.
- (B) The administrative business of the court shall be conducted by the Executive Officer, as more particularly described herein.

(Amended, effective 7/1/01)

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RULE 2.02 DUTIES OF THE PRESIDING JUDGE AND ASSISTANT PRESIDING JUDGE

The Presiding Judge and Assistant Presiding Judge of the court shall perform those duties set forth in California Rules of Court, Rule 6.603, as they apply, and shall be guided by the principles in the "Standards of Judicial Administration" set forth in the Appendix to the California Rules of Court, Division I.
(Amended, effective 7/1/01)

RULE 2.03 SELECTION AND TERM OF THE PRESIDING JUDGE

- (A) The Presiding Judge and Assistant Presiding Judge of the Court shall be selected in accordance with California Rules of Court, Rule 6.602.
- (B) The Presiding Judge and Assistant Presiding Judge shall serve a term of two years. The term shall commence on January 1 and terminate on December 31, two years hence. The term is subject to California Rules of Court, Rule 6.602.
(Adopted 7/1/01)

RULE 2.04 THE ASSISTANT PRESIDING JUDGE

When the Presiding Judge is absent or unable to act, the Assistant Presiding Judge shall perform the duties of the Presiding Judge.
(Adopted 7/1/01)

RULE 2.05 THE EXECUTIVE OFFICER, ASSISTANT EXECUTIVE OFFICER, AND CLERK OF THE COURT

The Executive Officer shall also serve as Clerk of the Superior Court. The Assistant Executive Officer shall be directly responsible to the Executive Officer in all matters relating to the administration of the court. The Executive Officer has ultimate responsibility, under the direction of the Presiding Judge of the court, for planning, organizing, and directing the nonjudicial activities of the court, as more particularly set forth within the Memorandum of Understanding between the judges of the court. The Executive Officer shall be responsible for the operation of the Colusa County Superior Court and shall perform those duties set forth in California Rules of Court, Rule 6.610, and in job descriptions approved by the court from time to time.
(Amended and renumbered, effective 7/1/01)

RULE 2.06 COURT REPORTERS

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(A) DUTIES OF COURT REPORTER

The court reporter shall report the following court proceedings (including trial) whether contested or uncontested:

- (1) Felony and misdemeanor criminal proceedings other than arraignments;
- (2) Juvenile proceedings; except the court, without objection by the parties, may elect to electronically record juvenile proceedings;
- (3) Any court proceedings ordered by the court; and
- (4) Any other court proceeding for which a party requests a court reporter in accordance with Rule 2.06, subdivision (B) below.

(B) REQUEST FOR COURT REPORTER

When a party requests a court reporter and the reporter is not required by Rule 2.06, subdivision (A)(1) through (A)(4), or by statute to report the court proceeding, such party shall provide their own court reporter for the proceedings.

(Amended and renumbered, effective 7/1/01)

RULE 2.07 INTERPRETERS

It is the responsibility of the parties in civil proceedings to provide their own interpreters. In criminal and juvenile proceedings, the court will provide interpreters for the defendant or minor or the minor's parents at an initial hearing when the court is aware that an interpreter is required, and at all subsequent hearings. The court will also provide interpreters in criminal and juvenile matters for witnesses. However, it is the responsibility of counsel, at the time a contested proceeding is set, to notify the courtroom clerk of the need for an interpreter for witnesses.

(Amended, effective 1/1/00; Renumbered, effective 7/1/01)

RULE 2.08 JURY SELECTION BOUNDARIES

In accordance with Code of Civil Procedure Section 190, et seq., there is hereby established one county-wide geographical

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selection area for the purpose of producing juror summons lists for the court.

(Adopted 7/1/92; Renumbered, effective 7/1/01)

RULE 2.09 CASE DISPOSITION TIME STANDARDS

(A) It is the policy of the court to manage all cases from filing (in civil matters) and first appearance (in criminal matters) through final disposition. This policy is to be construed in a fashion which is consistent with existing law. This policy is established to maximize efficient use of court resources; to improve the administration of justice by encouraging prompt disposition of all matters coming before the court; and to resolve cases within the time standards established in the California Rules of Court, Standards of Judicial Administration (hereinafter, "The Standards"), Sections 2.1 and 2.3, which are incorporated herein by this reference as follows:

(B) GENERAL CIVIL CASES

A general civil case is any civil case, other than unlawful detainer, probate, guardianship, conservatorship, family law, juvenile proceedings, and "other civil petitions" as defined in Standards, Section 2.1(e). The goals for general civil cases are:

(1) 90 percent disposed of within 12 months after filing;

(2) 98 percent disposed of within 18 months after filing;

(3) 100 percent disposed of within 24 months after filing.

(C) SMALL CLAIMS CASES

The goal for small claims cases is 100 percent disposed of within:

(1) 30 days after filing if all defendants reside within the county;

(2) 60 days after filing if a defendant resides outside the county.

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(D) UNLAWFUL DETAINER CASES

The goals for unlawful detainer cases are:

- (1) 90 percent disposed of within 30 days after filing;
- (2) 100 percent disposed of within 45 days after filing.

(E) MISDEMEANOR CASES

The goals for misdemeanor cases are:

- (1) 90 percent disposed of within 30 days after the defendant's first court appearance;
- (2) 98 percent disposed of within 90 days after the defendant's first court appearance;
- (3) 100 percent disposed of within 120 days after the defendant's first court appearance.

(F) FELONY PRELIMINARY EXAMINATIONS

The goal for felony filings, excluding murder cases in which the prosecution seeks the death penalty, is disposition (by certified plea, finding of probable cause, waiver of preliminary examination, or dismissal) of:

- (1) 90 percent within 30 days after the defendant's first court appearance;
- (2) 98 percent within 45 days after the defendant's first court appearance;
- (3) 100 percent within 90 days after the defendant's first court appearance.

(G) FELONY CASES

The goal for all felony cases is disposition within one year of first appearance in any court, except for capital cases.

(H) In order to meet the standards for timely disposition, additional procedures, guidelines, and requirements are set forth with elsewhere in these Rules.

(Amended, effective 1/1/00; Renumbered, effective 7/1/01)

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RULE 2.10 SMOKING

Smoking is prohibited throughout the courthouse. Persons desiring to smoke shall do so outside of the courthouse. Recesses during jury deliberation will be permitted at reasonable intervals to permit smoking outside the courthouse.

(Amended and renumbered, effective 7/1/01)

RULE 2.11 PAGERS AND CELLULAR PHONES

Cellular telephones and audible pagers must be turned off before entering courtrooms and may not be used within any of the courtrooms.

(Adopted 1/1/00; Renumbered, effective 7/1/01)

RULE 2.12 FIREARMS

(A) No person shall bring any firearm, explosive, or weapon into a Colusa County courthouse except in full compliance with all laws pertaining thereto.

(B) No person shall bring any firearm, explosive, or weapon into a Colusa County courtroom except Peace Officers as specified in §830.1, 830.2 and 830.5 of the California Penal Code, and others as may be specifically approved by the Judge presiding therein.

(C) Notwithstanding any provision above, no person with a personal interest or stake in a matter being heard in a Colusa County courtroom shall bring into or possess any firearm, explosive, or weapon within that courtroom or within 50 yards of the main entrance to that courtroom. Nothing in this subdivision shall be construed to apply to a Peace Officer or other officer or personnel of the court when appearing or testifying solely in connection with his or her official duties.

(D) Notwithstanding any provision above, the Judge presiding within any Colusa County courtroom, when he or she determines it to be appropriate, may prohibit any and all persons from bringing into or possessing within his or her courtroom any firearm, explosive, or weapon. Such a determination will be announced by posting a sign to that effect immediately outside of the affected courtroom.

(Adopted 7/1/01)

RULE 2.13 COURT SECURITY: SEARCHES OF PERSONS AND PROPERTY

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In order to maintain adequate physical security for court personnel, litigants, and the public, and to ensure compliance with Rule 2.12 above, the following procedures shall apply to all court facilities.

- (A) All courtrooms and exterior doors of the courthouse shall be posted with a sign that shall state that all persons entering the courthouse or a courtroom are subject to search.
- (B) All persons entering the courthouse or a courtroom shall be subject to cursory search, including searches of purses, parcels and other carried items at any time deemed warranted by court security personnel or as directed by a judge of the court. "Cursory search" includes the use of "pat down" searches, electronic metal detection and visual inspection of the contents of any purse, parcel, or carried item.
- (C) All persons entering a courtroom shall be subject to detailed search, including searches of purses, parcels, or other carried items at any time authorized by the judge of the subject courtroom. "Detailed search" shall include all of the means in the previous paragraph, plus such additional measures as may be deemed warranted by the authorizing judge.
- (D) In conducting searches pursuant to this Rule, court security personnel shall acknowledge the right of a person to decline a search of their person or property, on condition that they immediately leave the courthouse. Such right to leave without being searched shall not apply to searches incident to arrest or otherwise being taken into custody, or any other circumstances authorized by law which permits searches without warrant. A person who refuses to submit to search and also refuses to leave the courthouse may be subject to arrest for violation of PC §148 and §166(5).
- (E) In conducting searches as authorized by this Rule, court security personnel, to the extent reasonably practicable, shall conduct the searches with discretion and out of the general view of the public and other court participants, including jurors. In exercising their discretion, court security personnel may take into account such factors as the intrusiveness of the search, potential disruption of court proceedings, officer safety and the security needs of the court.

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- (F) Notwithstanding any of the foregoing provisions, upon good cause shown, a judge of the court may order any method of search of persons or property deemed necessary on a case-by-case basis to secure the safety of the courthouse, court personnel, litigants and the public.

(Adopted 7/1/01)

RULE 2.14 REQUESTS FOR ACCOMMODATIONS BY PERSONS WITH DISABILITIES

The court does not discriminate on the basis of disability with respect to admission to, access to, or the operations of its programs, services, benefits or activities. Disabled persons wishing to request accommodations may do so by completing Judicial Council Form MC-410, Request for Accommodations by Persons with Disabilities and Order, and sending it to the Court Executive Officer, 532 Oak Street, Colusa, CA 95932. Requests for accommodation may also be made by telephoning (530) 458-5149.

(Adopted, effective 1/1/03)

SECTION 3 CIVIL LAW AND MOTION RULES

RULE 3.01 SCOPE OF LAW AND MOTION RULES

The sole and exclusive rule authority concerning the form or format of pleadings, demurrers, ex parte applications, motions, discovery, and provisional remedies is found in the California Rules of Court, Title Two, Division II commencing at Rule 301.

(Adopted 1/1/00)

RULE 3.02 RESERVED

RULE 3.03 RESERVED

RULE 3.04 PAYMENT OR WAIVER OF FEES

- (A) The clerk is authorized to grant applications for fee waivers that meet the standards of eligibility established by subdivision (a)(6)(A) or (a)(6)(B) of Government Code Section 68511.3. Pursuant to California Rules of Court, Rule 985, both the clerk and County Collector are hereby designated to make financial inquiries and verification contemplated thereby.

- (B) In all civil cases in which a prevailing party has been granted a waiver of fees and is awarded costs, the court shall order that the party bearing costs pay to

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the clerk and serving and levying officers, respectively, the aggregate of any fees that were waived.

(Amended 7/1/01)

RULE 3.05 RESERVED

RULE 3.06 RESERVED

RULE 3.07 SUBSTITUTION OF ATTORNEYS OR OF PARTY IN PRO PER

Parties seeking substitution of attorneys or substitution of a party in pro per must serve and file Judicial Council Form MC-050, Substitution of Attorney-Civil.

(Amended, effective 1/1/03)

RULE 3.08 RESERVED

RULE 3.09 RESERVED

**RULE 3.10 HEARINGS AND CONTINUANCES OF HEARINGS ON MOTIONS
AND OTHER APPLICATIONS FOR ORDERS**

(A) MATTERS HEARD IN LAW AND MOTION DEPARTMENTS

All demurrers, motions and other applications for orders (except ex parte applications), trial settings and pretrial conferences, and any other matters in connection with civil actions and proceedings customarily heard and determined as law and motion matters shall be set on each Monday. When Monday is a court holiday, such matters shall be set on the next court day, absent further order of court.

(B) NONAPPEARANCE OF PARTIES

California Rules of Court, Rule 321, paragraphs (b) and (c) shall govern nonappearances by parties at a hearing. It is the obligation of the moving party to promptly notify the court at least two (2) court days before the scheduled hearing date if a matter will not be heard on the scheduled hearing date. In addition, a party who desires to submit a matter without appearing shall also give two (2) court days' notice of that fact.

(C) TELEPHONE CONTINUANCES

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A telephone continuance will not be granted except upon a call made no less than two (2) court days before the scheduled hearing from counsel for the moving party, or the moving party if appearing in pro per, in which a representation is made that all parties affected by the motion have agreed to the continuance. The continuance shall be to a date certain, and shall be confirmed forthwith by letter to the clerk. The continuance shall be reflected in the file. The giving of notice to all parties of the date to which the matter is continued is the responsibility of the moving party.

(D) EVIDENCE AT HEARING

Evidence at the hearing shall be governed by California Rules of Court, Rule 323.

(E) TELEPHONIC APPEARANCES

- (A) In addition to the provisions of Rule 298, California Rules of Court, and because this court will be using an outside vendor for telephonic appearances in non-evidentiary civil law and motion and probate matters, if counsel desire to appear by telephone in any non-evidentiary law and motion hearing or probate hearing, counsel shall, at least five (5) days before the appearance, file and serve with CourtCall (not the court) a "Request for CourtCall Telephonic Appearance". The Request for CourtCall Telephonic Appearance form to be used for this purpose is attached as Appendix "A" to these Rules. Counsel shall notify by telephone other counsel and all parties appearing in propria persona of this intention.
- (B) The Court's vendor for all telephonic appearances will be CourtCall, LLC, which will initiate all calls and directly invoice participants at prevailing rates.
- (C) The court, in its discretion, may calendar telephonic appearances for hearing at a time different than the regularly scheduled law and motion or probate calendar. If so, the party who requests the appearance by telephone shall be responsible for initiating the appropriate conference call at the appointed time, and shall bear the costs for the telephone appearance.

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Counsel may inquire of the clerk whether there is a telephone conference service available for this type of appearance. If there is not, counsel should make appropriate independent arrangements.

- (D) Costs related to telephonic appearance are not recoverable costs under Code of Civil Procedure §1033.5.

(Amended, effective 7/1/01)

RULE 3.11 PREPARATION OF ORDERS

Except as otherwise specified by the court, or in cases where it is impracticable due to time constraints in the case, the prevailing party on a motion shall, within five (5) days of receipt of the court's written or oral ruling, prepare and submit to the opposing party for approval as to matters of form only, an order thereon. The prevailing party shall promptly present the order to the court after a reasonable opportunity for review and sign-off by the opposing party, in a manner not inconsistent with California Rules of Court, Rule 391. This Rule shall not apply in situations in which the motion was unopposed and only the prevailing party appeared at the hearing thereon.

(Amended, effective 7/1/97)

SECTION 4 SETTING OF TRIAL AND TRIAL - CIVIL

RULE 4.01 SETTING OF CASES FOR TRIAL - GENERAL CIVIL CASES

(A) CASE NOT SUBJECT TO DELAY REDUCTION RULES

All general civil cases filed in the Superior or Municipal Court before July 1, 1992, shall be subject to this Rule 4.01(A).

(1) AT-ISSUE MEMORANDUM

An attorney or in pro per party desiring to set a case for trial shall serve and file an at-issue memorandum in accordance with California Rules of Court, Rule 209.

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(2) COUNTER MEMORANDUM

Any party not in agreement with the information stated in the at-issue memorandum first filed may file a counter at-issue memorandum pursuant to California Rules of Court, Rule 209(d). Upon the filing of a counter memorandum which does not agree with the statement in the at-issue memorandum that the case is at issue, the clerk, on the court's own motion, shall set the matter for hearing on the Law and Motion Calendar to determine whether the case is at issue. Written notice shall be given to all parties by the clerk at least fifteen (15) days prior to such hearing.

(3) DUTY OF ATTORNEYS AND PARTIES

Attorneys or in pro per parties who file an at-issue memorandum or a counter memorandum shall estimate the time of trial as accurately as possible; and, in limited jurisdiction cases, before serving and filing the memorandum, shall review Code of Civil Procedure Section 90, et seq., to determine whether trial can be expedited.

(4) JURY TRIAL DEMAND

A party desiring a jury trial shall make demand by inclusion in an at-issue memorandum, or in a counter memorandum served and filed within five (5) days after service of any other party's memorandum.

(5) CIVIL ACTIVE LIST

Cases in which an at-issue memorandum has been filed and served or in which an order has been made deeming the case at-issue, shall be placed on the civil active list, in accordance with California Rules of Court, Rule 210, fifteen (15) days after filing of the at-issue memorandum, except unlawful detainer actions which shall be set according to Code of Civil Procedure §1170.5.

(6) MASTER CALENDAR

Subject to statutes which confer precedence, and in accordance with California Rules of Court, Rules 217-220, cases placed on the civil active list shall be assigned trial dates and placed on the master calendar as nearly as possible in the order in which at-issue memoranda have

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been filed, following a trial setting conference or pretrial conference.

(7) NOTICE TO PARTIES

Upon setting a trial date, the Clerk shall give notice thereof to all attorneys who have appeared in the action, and to all pro per parties, and shall file a proof of service thereof unless all parties have waived notice. Any party may additionally serve and file proof of service thereof, as provided in Code of Civil Procedure Section 594.

(8) PRETRIAL CONFERENCES

In addition to, or in lieu of, a trial setting conference, a pretrial conference may be scheduled in the discretion of the court. A pretrial conference shall be scheduled for all cases in which a jury has been requested by one or more of the parties. If so set, the clerk shall provide written notice of same in the manner described above. No fewer than five (5) calendar days in advance of the conference date, all parties shall serve and file pretrial statements setting forth responses to the matters identified in the pretrial notice which shall have been served upon all parties by the clerk. The parties shall appear at pretrial conferences, unless excused by the court, for good cause shown. A pretrial conference may not be dropped or continued without an order from the court obtained after hearing on a motion made upon written notice, setting forth the grounds, stated in detail, upon which the motion is based. A pretrial order shall be prepared by the court following the pretrial conference.

(9) STATUS CONFERENCES

In the exercise of its inherent power to assure the prompt disposition of cases, and in furtherance of the case disposition time standards contained within the California Rules of Court, Standards of Judicial Administration, Sections 2.1 and 2.3, the court, in its discretion, may schedule a status conference in any case, regardless of the date of filing of the action, upon written notice of the clerk, or oral notice to all parties made in open court. Each party to an action so scheduled for a status conference shall appear by counsel

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familiar with the case, if the party is represented, and if not, the party shall appear.

(B) CASES SUBJECT TO DELAY REDUCTION RULES

All general civil cases (as defined in Rule 2.09(B)) filed on or after July 1, 1992, or transferred by a court in another jurisdiction on or after July 1, 1992, shall be subject to this Rule 4.01(B).

(1) POLICY STATEMENT

The California Government Code and the California Rules of Court mandate that trial courts actively manage and supervise the pace of litigation from the date of filing to disposition by reference to specific procedure and guidelines. The court shall implement that mandate in the following manner in light of currently scarce judicial resources and the cooperative past efforts of the bar. The court will establish certain case development benchmarks but, generally, will not intervene with orders to show cause or early status conferences, in favor of conducting a comprehensive case management/pretrial conference approximately 210 days after the complaint is filed by which time all parties, if diligent, should be prepared to declare the case to be at issue; to identify all issues to be tried; to inform the court relative to case management issues; to summarize the pertinent results of discovery activity; to address alternative dispute resolution and settlement; and to schedule arbitration, trial or other proceedings.

(2) CASE DEVELOPMENT BENCHMARKS

The court adopts the following time period for progression of general civil cases:

- (a) Service of complaint and filing of proof of service within 60 days of filing.
- (b) Filing and service of responsive pleadings within 30 days of service of the complaint.
- (c) Except to the limited extent permitted by Government Code Section 68616, no extensions of time shall be allowed on stipulations between the parties. To the extent extensions are permitted

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upon stipulation pursuant to the referenced authority, they shall be in writing and promptly filed with the court.

- (d) Extensions of time for periods longer than permitted by statute upon stipulation may be permitted by the court, upon ex parte application which conforms with California Rules of Court, Rule 379.
- (e) At the time of the case management/pretrial conference, if not earlier, the court shall determine if the parties have complied with these case development benchmarks. If one or more parties has not complied, the court may, in its discretion, impose sanctions permitted by law at that time, without further notice, after the parties have had an opportunity to be heard.
- (f) Until otherwise designated by the court at the case management/pretrial conference, each case is presumed to be on a 12 month plan from filing to disposition. (California Rules of Court, Rule 2105; Standards of Judicial Administration Section 2.1(h), 2.3(b)).

(3) PROCEEDINGS IN ADVANCE OF CASE MANAGEMENT/PRETRIAL CONFERENCE

- (a) In its discretion on a case-by-case basis, the court may schedule status conferences and OSC hearings in advance of the case management/pretrial conference on timely notice to the parties. Unless expressly waived by the court, personal appearance by all counsel of record or the parties, if unrepresented, is required at any such conference.
- (b) Nothing in these Rules shall be construed to preclude a party from seeking preferential trial setting, as provided in the Code of Civil Procedure, upon a duly noticed motion in advance of the case management/pretrial conference.
- (c) Nothing in these Rules shall be construed to preclude a party from seeking a referral to Judicial Arbitration, pursuant to California Rules

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of Court, Rule 1600(a) or (b), and these Rules, Rule 5.10, upon a duly noticed motion in advance of the case management/pretrial conference.

- (d) Nothing within these Rules shall be construed to preclude a party from seeking early disposition of an uncomplicated case, as defined and provided in California Rules of Court, Rule 2105(e), upon a duly noticed motion in advance of the case management/pretrial conference, which establishes that the case is at-issue; that no general or exemplary damages are sought; that there are no more than two sides to the case; and that presentation of evidence will take no more than one-half of a court day.

(4) THE CASE MANAGEMENT/PRETRIAL CONFERENCE

(a) NOTICE

At the time the complaint is filed, the court shall provide plaintiff with a Notice of Case Management Conference (hereinafter the "Notice") which shall specify the date and time and place of the case management/pretrial conference. Plaintiff shall serve a complete copy of the Notice upon any party served with the complaint, at the time of said service, and upon plaintiffs in intervention or interpleader within ten (10) days of being served with a complaint in intervention or interpleader. All cross-complainants shall serve a complete copy of the Notice upon each cross-defendant at the time the cross-complaint is served.

(b) SCHEDULING

The case management/pretrial conference shall be set for a date no earlier than 210 days and no later than 230 days from the filing of the complaint.

(c) CASE MANAGEMENT/PRETRIAL STATEMENT

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No later than five (5) days before the case management/pretrial conference, each party shall file and serve on all other parties a case management/pretrial statement which addresses with detail and particularity each area of inquiry designated in the Notice. The Case Management Conference Statement shall state that all parties have met and conferred on all areas designated in the notice. The statement shall also indicate whether there is an alternative dispute resolution process in which the party would be willing to participate on a voluntary basis.

(d) **PRETRIAL ORDER**

At or immediately following the case management/pretrial conference, the court shall issue its order addressing the status of the case and further proceedings.

Sanctions for violations of these Rules, if any violations occurred up to and including the time of the case management/pretrial conference, will be considered by the court at this time.

(e) **FURTHER STATUS CONFERENCE**

Further status conferences will not be set as a matter of course in each case but on a case-by-case basis when circumstances dictate.

(Amended, effective 7/1/01)

RULE 4.02 CHANGING TRIAL DATE ONCE ASSIGNED, AND SPECIAL SETTINGS

Motions to advance, reset or specially set cases for trial, and to continue trial dates, shall be made on written notice to all parties who have appeared, and shall be noticed for hearing in the appropriate law and motion department unless otherwise prescribed by the Presiding Judge.

Motions for continuance of a trial date shall be noticed promptly upon the necessity for continuance being ascertained. No continuance will be granted except upon an affirmative showing of good cause therefore.

(Adopted 7/1/92)

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RULE 4.03 DUTIES IF CASE SETTLES

Whenever a case assigned a trial date settles, the attorneys or in pro per parties shall immediately notify the court. Primary obligation to notify the court shall be plaintiff's through his or her attorney or, in pro per, in person. Notification may be by telephone to the clerk, but, in such case, shall be followed within five (5) days by a confirming letter with copies to all parties. Notification of settlement to the court shall result in the vacating of any trial date and the removal of the action from the master calendar and civil active list.
(Adopted 7/1/92)

RULE 4.04 DEMAND FOR JURY IN CIVIL ACTION; PAYMENT OF FEES

- (A) A party who has made timely demand for a jury trial shall deposit with the clerk, at least twenty-five (25) days prior to the date set for trial or at least five (5) days prior to the date of trial in an unlawful detainer action, a sum representing the amount of one day's jury fees payable under the law (which include average mileage and transportation). All parties, in cases other than unlawful detainer actions, shall send written notice of said jury fee deposit to all other parties at the time that such deposit is made. Absence of notice of timely deposit shall be deemed notice of failure to deposit to all remaining parties. The clerk will not provide written notification to counsel in advance of the trial date. Thereafter, at the beginning of the second and each succeeding trial day, the courtroom clerk will request from the party or parties who demanded the jury a sum equal to one day's fees of the jury and the accrued mileage and transportation, if any there be. Each such request shall be honored on the day it is made. If the request is not honored, that party shall be deemed to have waived a jury and the remaining parties shall be so notified by the clerk promptly.
- (B) A party who has demanded a jury trial and later decides to waive such demand shall give written notice of the waiver to the clerk and all other parties.
- (C) When the party who has demanded trial by jury waives such trial or is deemed to have waived such trial, the adverse party or parties shall then have not exceeding five (5) days following the actual or constructive receipt of notice of the waiver to serve and file a demand for trial by jury and to deposit one day's jury fees. If the

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waiver occurs during or within five (5) days of the commencement of the trial, however, the adverse party shall make a demand and deposit on the next trial day.

- (D) If, after waiver by the party who has demanded trial by jury, the adverse party or parties fail to timely demand trial by jury and post fees as prescribed, the case will be tried without a jury.
- (E) Notwithstanding any other provision of these Rules, upon a showing of good cause, the court may order that the deposit of jury fees take place at any time prior to trial. In such event, the applicant, upon the deposit of required jury fees in accordance with such order, shall be entitled to trial by jury.
- (F) If trial by jury is waived by all parties or the case is settled, and notice thereof is communicated to the clerk no less than seventy-two (72) hours prior to the date of trial, any jury fees then on deposit in connection with such action or proceeding shall be refunded to the party or parties by whom such deposit was made or transmitted to the State Controller in accordance with the provisions of §631.3 of the Code of Civil Procedure.

(Amended, effective 7/1/01)

RULE 4.05 PARTIES NOT PRESENT FOR TRIAL

- (A) If a party has been served and did not answer but default and default judgment have not been entered and rendered, and the action has nevertheless been set for trial as to other parties, on proper application, judgment may be rendered and entered against the party in default in accordance with Code of Civil Procedure Sections 585 or 586.
- (B) If a party has been served and answered, but does not appear for trial and appropriate notice of time and place of trial has been given, the court will proceed with the case in accordance with Code of Civil Procedure Section 594.
- (C) If a named party has not been served, plaintiff will ordinarily be required to dismiss as to that party without prejudice.

(Adopted 7/1/92)

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RULE 4.06 CONDUCT OF CIVIL TRIALS INVOLVING JURIES

(A) CHALLENGES FOR CAUSE

Upon completion of voir dire examination as to all prospective jurors in the jury box or as to a prospective juror individually, a party should state whether he or she "passes for cause."

(B) PEREMPTORY CHALLENGES

If there are more than two sides and one side is allotted substantially more peremptory challenges than any other side, the trial judge will require the side with the greater number of challenges to exercise every second challenge, i.e., alternate with each of the other sides, rather than rotate the challenges from one side to a second side to a third side.

(C) WHEN EXHIBITS ARE TO BE GIVEN TO JURORS

Exhibits admitted into evidence shall be handed to jurors in the jury box only after leave therefore is obtained from the trial judge. Exhibits such as writings, which are not subject to cursory examination, ordinarily will not be provided to jurors until they retire to the jury room upon the cause being submitted to them.

(D) WHEN JURY INSTRUCTIONS ARE TO BE SUBMITTED

- (1) Pursuant to Code of Civil Procedure Section 607a, unless otherwise indicated by the trial judge, all jury instructions covering the law as disclosed by the pleadings shall be delivered in writing to the trial judge before the first witness is sworn. At the same time copies thereof shall be served upon adversaries.
- (2) Thereafter, any additional proposed instructions may be delivered to the trial judge and served upon adversaries.

(E) DUTY TO PREPARE, SUBMIT AND MODIFY BAJI INSTRUCTIONS

- (1) Attorneys and in pro per parties shall prepare and submit copies of any desired BAJI instructions. The Court does not maintain a stock of such form instructions.

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- (2) If an attorney or in pro per party submits BAJI instructions, all deletions, strikeouts, insertions and modifications therein which are appropriate to the case shall be made prior to submission.

(F) FORM OF PROPOSED JURY INSTRUCTIONS

All proposed jury instructions shall conform to the requirements of California Rules of Court, Rules 229(a) and (b); and shall specify thereon the manner in which any BAJI instruction has been modified.

(G) SPECIAL VERDICT AND FINDING FORMS

- (1) A party who requests a special verdict or special findings shall, in connection with requested instructions, comply with California Rules of Court, Rule 230.
- (2) A special verdict or special findings form shall be so drafted as to require as much as possible an answer of "yes" or "no".

(Amended, effective 7/1/01)

SECTION 5 MISCELLANEOUS RULES - CIVIL

RULE 5.01 ATTORNEY FEES IN CIVIL ACTIONS OR PROCEEDINGS

- (A) In actions on promissory notes and contracts providing for the payment of attorney fees, whenever a prevailing party is entitled to the recovery of reasonable attorney fees, the following schedule shall be considered by the court, in its discretion, in awarding attorney fees:

(1) DEFAULT ACTION

Exclusive of costs and interest,

- (a) Twenty-five percent (25%) of the first two thousand dollars (\$2,000) awarded as damages;
- (b) Twenty percent (20%) of the next four thousand dollars (\$4,000);

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- (c) Fifteen percent (15%) of the next four thousand dollars (\$4,000);
- (d) Ten percent (10%) of the next ten thousand dollars (\$10,000);
- (e) Five percent (5%) of the next thirty thousand dollars (\$30,000); and
- (f) Two percent (2%) of amounts in excess of the first fifty thousand dollars (\$50,000).

(2) CONTESTED ACTION

The same amount as computed under paragraph (A)(1), increased by such compensation computed on an hourly or per-day basis for any additional research, general preparation, trial or other services as may be allowed by the court.

- (B) Where a defendant is the prevailing party, the fees will be fixed by reasonable compensation computed on an hourly or per-day basis for research, general preparation, trial or other services rendered.
- (C) Where a prevailing party is entitled to the recovery of reasonable attorney fees in an otherwise appropriate clerk's judgment, the clerk shall include attorney fees computed pursuant to the fee schedule contained in this Rule.
- (D) In any case where a party claims fees in excess of those allowed by this Rule, application for attorney fees shall be made to the court, supported by declarations setting forth the factual basis for the claimed attorney fees. The fees will thereupon be fixed by the court.

(Adopted 7/1/92)

RULE 5.02 ATTORNEY FEES IN RESIDENTIAL UNLAWFUL DETAINER ACTIONS

In actions for residential unlawful detainer, the attorney fees awarded by the Court will not, under normal circumstances, exceed three hundred dollars (\$300) in cases by default where the defendant has filed no answer pursuant to Code of Civil Procedure Section 1170, or four hundred dollars (\$400) in cases uncontested at trial where the defendant has filed an answer.

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(Adopted 7/1/92)

RULE 5.03 ATTORNEY FEES IN CASES INVOLVING MINORS OR INCOMPETENT PERSONS

(A) On any application for approval of a compromise under Code of Civil Procedure Section 372 or Probate Code Section 3500, the attorney fees hereafter set forth shall be considered reasonable under normal circumstances. In computing fees on the basis of the amount of the judgment, special damages allotted to the parents and the costs paid or incurred by any attorney shall be first deducted therefrom.

(1) Settlement without the commencement of a court trial: twenty-five percent (25%).

(2) Recovery of judgment or obtaining settlement after court trial has commenced: thirty-three and one-third percent (33 1/3%).

(3) Settlement after filing appellant's opening brief on appeal: forty percent (40%).

(B) In cases involving unusual circumstances or conditions, the foregoing fees shall be subject to variation by the Court to meet such circumstances or conditions.

(Adopted 7/1/92)

RULE 5.04 COMPROMISE OF CLAIM OF MINOR OR INCOMPETENT PERSON

(A) PETITIONS TO COMPROMISE

A petition for court approval of a compromise pursuant to Code of Civil Procedure Section 372, Probate Code Section 2504, or Probate Code Section 3500, shall be made using Judicial Council Form MC-350, Petition to Approve Compromise of Claim. All petitioners shall also submit a completed Judicial Council Form MC-351, Order Approving Compromise of Claim.

(B) ORDER TO DEPOSIT MONEY

If the petition seeks to have settlement proceeds deposited into a blocked account, the petitioner must also file a completed Judicial Council Form MC-355, Order to Deposit Money Into Blocked Account. If the court approves the deposit into a blocked account, the

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petitioner must deliver three (3) copies of the order and three(3) copies of Judicial Council Form MC-356, Receipt and Acknowledgement of Order for the Deposit of Money Into Blocked Account, to each depository in which funds are deposited.

(C) WITHDRAWAL OF FUNDS

Requests for withdrawal of funds deposited into a blocked account must be made using Judicial Council Form MC-357, Petition for Withdrawal of Funds From Blocked Account. Petitioners must also submit a completed Judicial Council Form MC-358, Order for Withdrawal of Funds From Blocked Account. Except as otherwise ordered by the court for good cause shown, where the attorney for the petitioner was allowed fees at the time of settlement, no attorney fees incidental to securing such order will be awarded.

(D) PRESENCE OF PETITIONER AND MINOR OR INCOMPETENT PERSON AT HEARING

The presence of the petitioner and minor or incompetent person at the hearing on petition for approval of compromise shall be required, unless, in advance of the hearing, good cause is shown to the court by letter request seeking to excuse that person's attendance. The court shall consider as factors in weighing such a letter request, without limitation, the following:

- (1) Amount of settlement;
- (2) Policy limits;
- (3) Extent of injury and need for future medical care related to injury;
- (4) Extent of residual (including cosmetic and psychological);
- (5) Liability;
- (6) Travel distance for minor and guardian, including consideration of any disability making travel difficult;
- (7) Interruption of education.

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Note: Generally, where petitioner is not represented by counsel, an appearance will be required.

(E) FILING FEE

In any case in which the filing fee was waived, it shall be ordered paid out of the settlement proceeds by court order before orders approving compromise and deposit are filed.

(Amended, effective 1/1/03)

RULE 5.05 FORM OF JUDGMENT

In drafting forms of judgment for the trial judge to sign, counsel shall:

- (A)** Clearly show the full names of the parties for whom, and against whom, the judgment is rendered, including their capacities as plaintiffs, defendants, cross-complainants and cross-defendants;
- (B)** Refer to such full names as they appear in the pleadings, or obtain an order amending the pleadings in respect to such names; and
- (C)** Unless costs have already been awarded in a specific amount, leave a blank space for insertion of any costs, as follows: "and costs in the sum of \$_____."

(Adopted 7/1/92)

RULE 5.06 STIPULATED JUDGMENT FORM TO BE SEPARATE FROM STIPULATION

If the parties enter into a written stipulation for judgment, the form of the proposed judgment to be signed and filed shall be a separate document. A copy of the proposed judgment may be attached as an exhibit to such stipulation.

(Adopted 7/1/92)

RULE 5.07 APPEAL FROM DECISION OF LABOR COMMISSIONER UNDER LABOR CODE SECTION 98.2

- (A)** Any party filing a Notice of Appeal of the order, decision or award of the Labor Commissioner pursuant to Labor Code §98.2, shall file with the clerk of the Court:
 - (1) A copy of the complaint and any answer filed with the Labor Commissioner; and

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- (2) A complete copy of the order, decision, or award of the Labor Commissioner, which shall include a summary of the hearing and the reasons for the decision if provided by the Labor Commissioner; and
 - (3) A declaration of proof of service of a copy of the Notice of Appeal upon the Labor Commissioner.
- (B) Any employer filing an appeal shall, in addition to the foregoing, post an appeal bond and provide notice to the other parties and the Labor Commissioner in compliance with Labor Code §98.2(b).
- (C) The clerk shall only set the matter for hearing de novo upon the filing of the papers prescribed in paragraphs (A) and (B).
- (D) The Notice of Appeal filed pursuant to Labor Code §98.2 shall be treated as the first paper for the purpose of determining the filing fee.
- (Amended, effective 7/1/01)

RULE 5.08 SETTLEMENT CONFERENCE

- (A) At the settlement conference, all parties shall:
- (1) Be prepared to make a bona fide settlement offer;
 - (2) Have in attendance all principals or clients, unless excused from attendance in advance, for good cause shown, and after notice to all other parties that such request to be excused will be made;
 - (3) Produce memoranda of items of any special damages claimed; and
 - (4) Have available any and all medical reports (if a personal injury is claimed), depositions, photographs, records, diagrams, maps, bills, contracts, memoranda and other documents pertinent to settlement of the case.
- (B) A settlement conference statement shall be filed **ten (10) days** before the date of the settlement conference.

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- (C) It is the responsibility of the parties to notify the clerk whether the case has or has not settled, in advance of said conference.

(Amended, effective 7/1/97)

RULE 5.09 SANCTIONS

A violation of these Rules of Court constitutes a violation of a lawful court order, as that term is used in Code of Civil Procedure Section 177.5, and may subject the party and/or counsel to sanctions thereunder, and as otherwise provided by law.

In addition to sanctions authorized in the Code of Civil Procedure, each court adopts and incorporates herein by this reference as though fully set forth at length California Rules of Court, Rule 227, pertaining to Superior Courts.

Any request for money sanctions must be made upon advance notice, in writing, unless on the court's own motion, in which case notice need not be in writing.

(Adopted 7/1/92)

RULE 5.10 ARBITRATION

- (A) Arbitration pursuant to California Rules of Court, Rule 1600 et seq., shall occur, subject to the provisions of Rule 1600.5, either (1) upon stipulation of all parties to non-binding arbitration; (2) upon stipulation of all parties to binding arbitration; (3) upon the filing of an election by a plaintiff, provided that plaintiff agrees that the arbitration award shall not exceed \$50,000; or (4) in all actions where the amount in controversy does not exceed \$50,000 as to any plaintiff. A stipulation or election pursuant to this Rule shall be made no later than the date first set by the clerk for a trial setting conference, pretrial conference, or case management/pretrial conference, as the case may be.
- (B) Arbitration hearings shall be conducted within sixty (60) days after the date of the assignment to the arbitrator, absent a continuance authorized in California Rules of Court, Rule 1607(a) or (b).
- (C) In no case shall an arbitration be continued to a date later than ninety (90) days after the date of assignment to the arbitrator except by order of court on application and for good cause shown in accordance with California Rules of Court, Rule 1607(c).

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- (D) With respect to cases not arbitrated timely, or concerning which the arbitrator declines to serve, the arbitration administrator shall proceed as required in California Rules of Court, Rule 1605(b) and (c).
- (E) Costs and expenses of the arbitration shall be paid in accordance with Code of Civil Procedure Section 1284.2.
(Amended, effective 1/1/00)

RULE 5.11 SMALL CLAIMS SETTINGS

Small claims calendars shall be established on a regularly scheduled basis (Code of Civil Procedure Section 116.250).
(Amended, effective 7/1/97)

RULE 5.12 DEFAULT PROVE-UPS

- (A) Except in cases in which the clerk may enter judgment without review by a judicial officer (California Code of Civil Procedure Section 585(a)), it is the general policy of the court that prove-up applications and evidence in support thereof be presented in written form, unless prohibited by law (Code of Civil Procedure Section 585(c)).
- (B) Affidavits and declarations presented in support of a prove-up application shall comply with the requirements of Code of Civil Procedure Sections 585 and 585.5.
- (C) For purposes of default prove-ups, allegations in the complaint or cross-complaint, if applicable, are not deemed proved because of the failure of the adverse party to answer. Rather, proof must be presented by competent evidence with respect to all essential elements of the causes of action to be proved. Conclusions are insufficient. Affidavits and declarations must show, affirmatively, that the affiant or declarant is competent to state those things that appear therein. Generally, the court will use the same standard for assessing the quality and sufficiency of the evidence as would be applied in a contested proceeding. (Code of Civil Procedure Section 585(d)).
(Adopted 7/1/92)

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RULE 5.13 FACSIMILE FILING

This Rule is adopted in accordance with the provisions of Rule 2001 et seq. of the California Rules of Court, and applies to civil, probate, and family law proceedings, with the exception that wills, codicils, bonds or undertakings shall not be filed by facsimile transmission. A document that is to be issued by the court (including, but not limited to, a summons, letters of administration, letters testamentary, and a writ of execution) shall not be sent to the court by facsimile transmission.

(A) DEFINITIONS

As used in this Rule, unless the context requires otherwise:

- (a) "Facsimile transmission" means the transmission of a copy of a document by a system that encodes a document into electrical signals, transmits such electrical signals over a telephone line, and reconstructs the signals to print a duplicate of the original document at the receiving end.
- (b) "File" or "filing" means the facsimile transmission of a document to a fax filing agency for filing with the court.
- (c) "Fax" is an abbreviation for "facsimile" and refers, as indicated by the context, to facsimile transmission or to a document so transmitted.
- (d) "Fax filing agency" means an entity that receives documents by fax for processing and filing with the trial courts. An attorney or law office may act as a fax filing agency for the attorney, the law office or others.

(B) COMPLIANCE WITH CRC 201 AND THE LOCAL RULES OF COURT

- (a) A fax document shall comply with Rule 201 of the California Rules of Court and all applicable Rules of this Court.
- (b) An exhibit that exceeds 8½ by 11 inches shall be reduced to 8½ by 11 inches before it is transmitted. The court may require the party to file the original of an exhibit that has been filed by fax.

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- (c) Any document which contains an exhibit which cannot be accurately transmitted by fax shall not be filed by fax.

(C) NO DIRECT TRANSMISSION FOR FILING

Facsimile produced documents may not be transmitted for filing directly to any fax machine owned or operated by the court or the clerk's office. In order to be filed with the court, all facsimile produced documents must be presented for filing at the filing window. All requested fees must be paid at the time of filing.

(D) QUALITY OF FACSIMILE PRODUCED DOCUMENTS

In order to be filed with the court, all facsimile produced documents must be produced on plain eight-pound bond paper by laser printer or better quality technique, and in terms of legibility, quality of paper and permanence must be of equal or better quality than non-facsimile produced documents.

(E) FAX FILING AGENCY

A party may transmit a document by fax to a fax filing agency for filing with the trial courts. The fax filing agency acts as the agent of the filing party and not as an agent of the court.

(F) DUTIES OF THE FAX FILING AGENCY

A fax filing agency that receives documents for filing shall:

- (5) Prepare the documents so that the documents comply with Rule 201 of the California Rules of Court and any other requirements for filing with this court.
- (6) Take the documents to the court.
- (7) Ensure that the words "By fax" are included on the first page immediately below the title of the document.
- (8) File the document with the court.
- (9) Pay any applicable filing fee.

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(G) REQUIREMENTS FOR ADVANCE ARRANGEMENTS

A fax filing agency shall not be required to accept papers for filing unless appropriate arrangements for payment of filing fees and service charges have been made by the transmitting agency before the papers are transmitted to the fax filing agency.

(H) CONFIDENTIALITY

A fax filing agency shall keep all documents transmitted to it confidential except as provided in these Rules.

(I) MULTIPLE FACSIMILE TRANSMISSIONS

In the event that a facsimile produced document is transmitted for the purpose of signatures by multiple parties or for any other purpose which does not result in the modification of the facsimile produced document originally transmitted, a certification, as required in section (I) of this Rule, must be provided by each person receiving the facsimile transmission.

(J) SIGNATURES

- (1) A party who files a signed document by fax pursuant to Code of Civil Procedure 1012.5 and these Rules represents that the original physically signed document is in his or her possession or control.
- (2) Notwithstanding any provision of law to the contrary, including Evidence Code sections 255 and 260, a signature produced by facsimile transmission will be treated as an original.
- (3) Within fifteen (15) days after service of a signed facsimile filing, any other party may serve a demand for production of the original physically signed document. The demand shall *not* be filed with the court. Failure to serve a demand is a waiver of the right to demand production of the physically signed original.
- (4) If a demand for production of the original physically signed document is made, the filing

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party shall arrange a meeting at which the original physically signed document can be examined.

(K) NOTATION OF FACSIMILE FILING

Each facsimile filing shall include the words "By fax" or "By facsimile" on the first page immediately below the title of the document. If a party is represented by an attorney, the attorney shall also include his or her facsimile machine telephone number, designated as a "fax" number, as part of the attorney's name, address, State Bar membership number, and telephone number on the document.

(Adopted 7/1/01)

SECTION 6 CRIMINAL RULES - FILING, WARRANTS, ARRAIGNMENT AND BAIL

RULE 6.01 FILING CRIMINAL COMPLAINTS

- (A) All criminal complaints charging in-custody defendants shall be filed with the clerk at the earliest time possible but in no case later than ten (10) court hours prior to such defendant's first appearance in court on those charges.
- (B) All criminal complaints charging out-of-custody defendants shall be filed with the clerk no later than three (3) court days before the time of the defendant's first scheduled appearance on those charges.

(Adopted 1/1/00)

RULE 6.02 BAIL

(A) GENERAL PROVISIONS

(1) REQUESTS FOR INCREASE OR REDUCTION

When bail has been set by a judge out of court, any further out of court requests for the increase or reductions of bail shall be made to the judge who set such bail. This requirement shall not apply in felony cases in which the initial setting occurred when the case was pending preliminary hearing and a further request occurs following the preliminary hearing.

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(2) MORE THAN ONE REQUEST

Any person requesting a bail reduction or increase shall disclose all other applications that have been made prior to this request.

(3) DEFENSE REQUESTS RE BAIL/OR

- (a) No defense applications may be made without prior notification to the District Attorney to allow a representative to be present.
- (b) When a defense request for bail or OR is made after normal court hours the requesting party shall, before contacting the court, arrange for the telephone availability of the District Attorney or one of his deputies.

(4) COSTS ON REQUEST TO SET ASIDE FORFEITURE

- (a) The court assesses the sum of seventy-five dollars (\$75) in those cases in which the defendant has voluntarily surrendered to the court, and one hundred twenty-five dollars (\$125) in those cases in which the defendant's appearance is the result of an agency arrest; as a condition to exoneration of bail in all cases (said sum representing the court's costs in reprocessing the defendant); and
- (b) Where the defendant has been transported back to Colusa County at public expense, those expenses shall be assessed at actual cost.

(B) SOURCE OF BAIL - PENAL CODE SECTION 1275 - PROCEDURE

When a Source of Bail Order pursuant to Penal Code Section 1275 has been signed by a judge in a case, the following procedure shall be followed by the defendant in calendaring the matter for hearing to show that no portion of the consideration, pledge, security, deposit, or indemnification paid, given, made, or promised for its execution was feloniously obtained:

- (1) The Request for Hearing shall be accompanied by a declaration or offer of proof setting forth the following:
 - (a) The identity of the bail agent and surety, or, if there is no surety, the depositor;

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- (b) The source of the bond premium, including name and address of person(s) proposing to pay said premium; and
 - (c) The source of the security or pledge, including the name and address of the owner, and description of the property.
- (2) The declaration or offer of proof shall be filed and personally served on the District Attorney not later than twenty-four (24) hours before the hearing.
 - (3) At the hearing, the defendant shall produce the bail agent, the person proposing to pay the premium, and the person proposing to provide the security for examination and cross-examination.

(Amended, effective 1/1/00)

RULE 6.03 ARREST AND SEARCH WARRANTS

- (A) All requests for arrest warrants and search warrants shall first be presented to the District Attorney for review and approval before delivery to the court. All supporting declarations on arrest warrants shall be fully dated and executed before being considered by a judge.
- (B) Search warrant returns are to be presented to the criminal court clerk who is authorized to receive and execute the return for the court pursuant to Penal Code §1534(c).

(Amended, effective 7/1/01)

RULE 6.04 RESERVED

SECTION 7 CRIMINAL RULES - MISDEMEANOR PRETRIAL CONFERENCE AND PRETRIAL PROCEEDINGS

RULE 7.01 NEGOTIATIONS PRIOR TO PRETRIAL CONFERENCE

- (A) Counsel are strongly encouraged to meet and discuss actions informally in an attempt to resolve matters prior to the pretrial conference.

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(B) Prosecution should deliver to defense counsel a formal offer for resolution prior to the day of readiness conference.

(C) Defense counsel should appear at the pretrial conference having already discussed the case and prosecution's offer with the defendant.

(Amended, effective 7/1/97)

RULE 7.02 RESERVED

RULE 7.03 PRETRIAL MOTIONS

(A) All Statutory and Rules of Court procedures control, and the court hereby incorporates by reference the requirements of California Rules of Court, Rule 4.111 pertaining to the making and timing of pretrial motions and opposition thereto, in Superior Courts.

(B) In the event that the moving papers are not timely filed for the assigned hearing date without good cause demonstrated, the motion may be deemed waived by the moving party.

(C) If any authority other than California cases, statutes, constitutional provisions or State or local rules is cited in any Motion or Memorandum of Points and Authorities, a copy shall be attached to the papers in which the authorities are cited and tabbed as exhibits. If a California case is cited before the time it is published in the Advance Sheets of the Official Reports, a copy of that case shall also be attached and be tabbed.

(D) Motions to continue any hearing, including trial, are disfavored and shall be denied unless the moving party, pursuant to and in accordance with Penal Code Section 1050, presents affirmative proof that the ends of justice require a continuance. A stipulation by all parties to continue a hearing does not constitute good cause, by itself. Substitution of counsel does not automatically constitute good cause for a continuance.

(E) Reserved
(Amended, effective 7/1/01)

RULE 7.04 TRIAL SETTINGS

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Trial dates will generally be set at the first appearance of counsel or at the pretrial conference. Generally, the court will select a trial date approximately thirty (30) days from the pretrial conference or first appearance of counsel.
(Amended, effective 7/1/97)

RULE 7.05 PRETRIAL CALENDAR

- (A) All counsel shall attend a trial readiness conference, generally held within two (2) weeks prior to the jury trial date, prepared to indicate to the court a readiness to proceed to jury trial. The obligations of the parties and counsel are as set forth in California Rules of Court, Rule 4.112 pertaining to Superior Courts, and incorporated herein by this reference.
- (B) Defense counsel trying the case shall be present at the trial readiness conference. Defense counsel shall insure the defendant(s) presence.
- (C) Both sides shall be fully prepared and able to discuss the facts of the case and the availability of witnesses for trial. The trial readiness conference shall not be continued without actual good cause shown, as defined in Penal Code Section 1050. It is the policy of the court to conduct one trial readiness conference for each case.
- (D) The court will be prepared to accept dispositions at the trial readiness conference. Following confirmation of the jury trial, the court will not accept any dispositions other than dismissal of the complaint in its entirety by the People, or a plea of guilty to the complaint in its entirety by the defendant(s). This practice is adopted due to the fact that this court orders a jury panel for a specific case and the cancellation of a jury will result in unnecessary expenditure of public funds and the denial of the use of that trial date for another case.

(Amended, effective 7/1/01)

RULE 7.06 RESERVED

SECTION 8 CRIMINAL RULES - DISCOVERY

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RULE 8.01 DISCOVERY

- (A) Discovery shall be governed by the provisions of Penal Code Section 1054, et seq.
- (B) The obligation to make discovery is an automatic, reciprocal, and continuing obligation.
- (C) Unless otherwise ordered, a motion in a criminal case for the discovery of information or evidence shall be in writing and, absent an order shortening time, shall be subject to the time standards contained in California Rules of Court, Rule 4.111, which is incorporated herein by this reference.
- (D) In misdemeanor cases, all discovery shall be timely sought so that the attorneys are adequately prepared to discuss the case at the trial readiness conference.
- (E) In the event of a failure to comply with this Rule or an order of discovery, the court may grant a continuance, exclude the evidence not disclosed, dismiss the case if required by the United States Constitution, or order any other relief or sanction available at law or under these Rules.

(Amended, effective 7/1/01)

SECTION 9 CRIMINAL RULES - TRIAL

RULE 9.01 RESERVED

RULE 9.02 MOTIONS AT TRIAL

Motions that are out of the ordinary or unusual (e.g. complex or extensive motions in limine) shall be made in writing, served upon opposing counsel, and filed at or before the trial readiness calendar.

(Adopted 7/1/92)

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RULE 9.03 SUBMISSION OF JURY INSTRUCTIONS

Absent an order of the court on good cause shown, all jury instructions covering the law as disclosed by the pleadings shall be delivered in writing to the trial judge not later than 12:00 P.M. on the first day of trial and shall be served on all other parties by that time. The court does not maintain a stock of CALJIC form instructions.

(Adopted 7/1/92)

SECTION 10 CRIMINAL RULES - PRELIMINARY EXAMINATIONS

RULE 10.01 TIME ESTIMATES FOR PRELIMINARY EXAMINATIONS

Counsel shall, at the time of setting, or as soon as possible thereafter, identify to the setting judge, any matter which can realistically be expected to take a half hour or more to present. Those matters not so designated will be assumed to require less than a half hour and will be appropriately calendared.

(Adopted 7/1/92)

RULE 10.02 CONTINUANCES OF PRELIMINARY EXAMINATIONS

Motions to continue the preliminary examination are disfavored and shall be denied unless the moving party, pursuant to and in accordance with Penal Code Section 1050 and the particular statutes pertaining to continuances of preliminary examinations, presents affirmative proof that the ends of justice require a continuance. A stipulation by all parties to continue the preliminary examination does not constitute good cause, by itself.

Substitution of counsel does not automatically constitute good cause for a continuance.

(Adopted 7/1/92)

SECTION 11 RULES RELATING TO TRAFFIC INFRACTION TRIALS

RULE 11.01 TYPES OF CASES

Special traffic infraction trial calendars are established for the trial of infraction matters not involving accidents, in which the defendant is in pro per. They include all infractions identified in state statutes or codes, or city or county ordinance codes. Trials of infractions, if they involve traffic accidents, or if counsel is appearing, shall be scheduled on regular court trial calendars on which the District Attorney appears, and are not governed by this Section.

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(Adopted 7/1/92)

RULE 11.02 TIME AND PLACE

Infraction trials shall be held Mondays at 3:30 p.m., interpreter cases at 11:00 a.m. on Tuesdays, or set on special calendars to be announced by the court, from time to time.

(Amended, effective 7/1/01)

RULE 11.03 SCHEDULING AND BAIL

All defendants requesting an infraction court trial shall post bail pursuant to Vehicle Code Section 40519 and only upon receipt of bail shall a date for trial be set. The requirement to post bail can only be waived by the court under unusual circumstances where the interest of justice so requires. The posting of bail is necessary to guarantee the appearance of the defendant and to apply toward the payment of any fine or assessment prescribed by the court in the event of conviction. Bail shall include all assessments under Section 42006 of the Vehicle Code and Section 1464 of the Penal Code.

(Adopted 7/1/92)

RULE 11.04 APPEARANCES

No party shall be represented by counsel on the special traffic infraction trial calendars identified in this Rule. The defendant shall be present or the matter will proceed in accordance with Vehicle Code Section 40512.5, which reads, in pertinent part, as follows:

"Section 40512.5. If at the time when the case is called for trial the defendant does not appear either in person or by counsel and has not requested in writing that the trial proceed in his or her absence, the Court may declare the bail forfeited and may in its discretion order that no further proceeding be had in the case, or the Court may act pursuant to Section 1043 of the Penal Code. However, if the defendant has been charged with violation of Section 23111 or 23112, or subdivision (a) of Section 23113, and he has been previously convicted of a violation of the same section, the court may declare the bail forfeited, but shall issue a bench warrant for arrest of the person charged, except in cases where the magistrate finds that undue hardship will be imposed upon the defendant by requiring him to appear, the magistrate

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may declare the bail forfeited and order that no further proceedings shall be had in such case."

- (A) A party may have witnesses present and may request subpoenas for their appearance, but must do so at least five (5) days prior to the trial date.
- (B) In the event a party desires to be represented by counsel, the party shall notify the court at least five (5) working days in advance of the scheduled trial date and the matter shall then be reset to an appropriate trial calendar.
(Amended, effective 7/1/97)

RULE 11.05 CONTINUANCES

No continuance of a trial shall be permitted unless the party requesting the continuance requests the same at least five (5) working days in advance of the trial date.

No continuance will be granted thereafter unless the interest of justice shall so require.
(Adopted 7/1/92)

SECTION 12 MISCELLANEOUS TRAFFIC INFRACTION RULES

RULE 12.01 TRAFFIC SCHOOL

This court will permit attendance at a court-approved traffic school as a means of obtaining a dismissal of a traffic charge which is susceptible to dismissal upon successful completion of traffic school under California Law. Rules of eligibility and procedures for completing traffic school shall be established by the court, from time to time, and shall be made available to the general public in the clerk's office.
(Adopted 7/1/92)

RULE 12.02 TRIALS BY WRITTEN DECLARATION

- (A) **ADOPTION OF TRIAL BY WRITTEN DECLARATION PROCEDURE**
This court adopts the provisions of Vehicle Code Section 40902 except as limited herein.
- (B) **ELIGIBILITY**

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Any defendant shall be afforded a trial by written declaration for such charges as allowed by Vehicle Code Section 40902 upon written request.

(C) REQUIREMENT FOR POSTING OF BAIL

Any person requesting a trial by written declaration shall be informed of the requirement to post bail in the full amount specified by the bail schedule. Additionally, the person shall be notified that if he or she would desire to attend traffic school (in the event of a finding of guilty), they are to post the appropriate State Traffic School Fee, in addition to the bail amount.

Failure to timely post bail shall be deemed to be a withdrawal of the request for trial by written declaration. Thereafter, a person shall not be afforded a trial by written declaration in that case, absent an order of the court, on good cause shown.

(D) USE OF JUDICIAL COUNCIL FORMS

Upon receipt of a request for trial by written declaration, the clerk shall provide to the defendant appropriate Judicial Council forms upon which to submit his or her declaration of facts. Trials by written declaration shall be submitted on forms prescribed by the Judicial Council.

(E) TIME LIMITS

A person having posted bail for a trial by written declaration shall adhere to the time limits set by the clerk of the court for submission of any required declarations, exhibits or other evidence. Failure to submit said evidence in a timely manner shall result in a bail forfeiture without further proceedings.

(F) EVIDENCE

Pursuant to Vehicle Code Section 40902(c), this court will admit all relevant evidence including but not limited to the complaint, citation, police reports, written declaration of the defendant or any witness, photographs, drawings, diagrams or other probative evidence.

(Amended, effective 7/1/01)

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SECTION 13 GENERAL CRIMINAL RULES

RULE 13.01 SANCTIONS

Rule 5.09 pertaining to civil actions is incorporated herein by this reference as though fully set forth at length, and is hereby made applicable to criminal actions in the court.
(Adopted 7/1/92)

RULE 13.02 PHOTOGRAPHING OR RECORDING COURT PROCEEDINGS

(A) WITHIN THE COURTHOUSE

- (5) The use of cameras, broadcast devices, or any audio or visual recording devices (including, but not limited to, still photography, broadcast cameras or devices, and tape, electronic, or digital video or audio recording devices) within any Colusa County courthouse or other facility being used as a courthouse, without prior permission of the Court, is prohibited.
- (6) The Court does not intend for this Rule to have any effect on legitimate Colusa County business being conducted within these structures.

(B) COURT PROCEEDINGS

The recording or broadcast of any court proceeding, whether by photography or any other audio or visual recording or broadcast device, is prohibited unless prior approval by written request is obtained from the Judge conducting the proceeding. Media requests will be governed by California Rule of Court, Rule 980.

(Amended, effective 7/1/01)

RULE 13.03 SENTENCE MODIFICATIONS

In cases in which the court has not lost jurisdiction and that defendant or counsel seeks modification of a term of probation, including a jail term, the clerk shall be contacted so that a hearing can be set before the bench officer who imposed the sentence, on a regular calendar over which that bench officer presides. The request for modification shall be in the form of a noticed motion, the time for filing and service of which shall be as set forth in California Rules of Court, Rule 4.111, absent an order shortening time obtained on written application, and for good

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cause shown. If the sentencing bench officer is unavailable to hear the motion timely, then the Presiding Judge or his or her designee shall hear the motion. Nothing in this Rule shall preclude pro per defendants from sending written requests for sentence modification to the sentencing judge's attention, nor shall it preclude bench officers from responding to such letter requests. In no event shall hearing on such an application take place following less than two (2) days actual notice to the District Attorney, unless time is expressly waived by the District Attorney.

(Amended, effective 7/1/01)

RULE 13.04

CLAIMS FOR PAYMENT BY COURT-APPOINTED COUNSEL

A claim for attorney fees and/or for reimbursement of expenses by an attorney appointed by the court to represent an indigent defendant in a criminal action shall be submitted to the presiding judge of the criminal calendar if a trial were held, no later than sixty (60) days following judgment and sentencing. Failure by the attorney to comply with this requirement shall be deemed a waiver of the claim and right to reimbursement. The claim shall include an itemized statement of the services rendered, the time devoted to each service, the sum requested for each item of service, the date of service, the items and amounts of reasonably necessary expenses incurred, and the total amount requested by such attorney.

Before incurring expenses for ancillary services, which are defined to include, without limitation, services of investigators, experts, paralegals, and transcriptionists who are not salaried employees of the attorney, the attorney shall make written application for authorization from the court to do so. Such application shall be supported by a declaration made under penalty of perjury, setting forth the following facts:

1. The reason such services are reasonably necessary in the preparation of a defense;
2. The type of service being requested;
3. The name of the provider being requested and a brief statement of the provider's qualifications to provide the requested services; and,
4. A request for authorization to spend up to a specific dollar amount.

(Amended, effective 1/1/00)

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SECTION 14 FAMILY LAW RULES

RULE 14.01 MEET AND CONFER REQUIREMENT

No matter (including a motion, order to show cause, or trial) in a proceeding brought under the Family Law Act will be heard until counsel, with their respective clients either physically present or immediately physically available, have met and conferred in a good faith effort to resolve all issues. Such conference shall include an exchange between counsel of all documents which may be relevant to the contested issues or which may be offered in evidence. At the outset of the hearing on the matter, counsel will be expected to represent to the court that there has been compliance with this Rule. Non-compliance with this Rule may result in the matter being dropped from the calendar or continued, or the rejection of documents not exchanged, or other appropriate sanctions.

(Adopted 7/1/92)

RULE 14.02 RECOMMENDATIONS OF MEDIATOR

Court-designated mediators of child custody and visitation disputes are hereby authorized to render a recommendation to the court as to the custody or visitation of the child, or children, involved.

(Adopted 7/1/92)

RULE 14.03 FAMILY LAW FACILITATOR

The Family Law Facilitator provided for pursuant to Division 14 of the Family Code, shall under the supervision, and at the direction of the Presiding Judge or the Presiding Judge's designee, in addition to providing the services set forth in Family Code Section 10004, be responsible to discharge the additional duties set forth in Family Code Section 10005.

(Effective 7/20/98)

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RULE 14.04

APPOINTMENT OF COURT-APPOINTED INVESTIGATOR

(A) APPLICABILITY

In any case in which custody and/or visitation are in dispute, the court may appoint an investigator and order that a child custody/visitation investigation and/or evaluation be conducted if, in the opinion of the court, or upon the recommendation of a mediator, there is a need for such service. The court shall appoint an investigator in accordance with Evidence Code Section 730 and Family Code Sections 1816, 3110 and 3111 and the evaluation shall be completed in compliance with California Rule of Court 1257.1, 1257.3 and 1257.7.

(B) CHALLENGES TO COURT-APPOINTED INVESTIGATOR

No peremptory challenge of a court-appointed investigator shall be allowed.

(C) EX PARTE CONTACT PROHIBITED

No party or attorney for a party shall initiate contact with a court-appointed investigator, orally or in writing, to discuss the merits of the case without giving the other party notice and an opportunity to be present or to receive a copy of a written communication. Nothing in this Rule shall prohibit the court-appointed investigator from contacting either party or attorney.

(D) CONTACT BETWEEN COURT-APPOINTED INVESTIGATOR AND MINOR CHILDREN

The court relies on the judgment of the investigator and other persons appointed, as a part of the investigation, in making decisions as to whether children will be interviewed, under what circumstances children will be interviewed, and in justifying such decisions in a particular case. Except in extraordinary circumstances, including the potential for danger to the child, children will be informed that the information provided by the child will not be confidential. A child seen by the investigator with one parent will also be seen with the other parent. At the discretion of the investigator, interviews with siblings may be separate. Unless ordered by the court, an investigation shall not be based on an interview with only one parent.

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(E) INVESTIGATION REPORT

The court order appointing the investigator shall state the date the court-appointed investigator shall return and file the report with the court. Generally, the court will order the report filed within sixty (60) calendar days from the date of appointment. The date for return of the report may be extended by order of the court or written agreement of the parties. The report shall be in writing and shall be distributed to the court, all counsel, and to the parties if they are unrepresented ten (10) calendar days prior to hearing. All written reports and recommendations of the court-appointed investigator shall be served upon the parties or attorneys consistent with Family Code Section 3111.

(F) ACCESS TO THE REPORT

Any written report or recommendation from the court-appointed investigator or the person appointed by the court to render a report as a part of the investigation shall be confidential and unavailable to any person except the court, the parties, their attorneys and any person to whom the court expressly grants access by written order made with prior notice to all parties. No person who has access to a report shall make copies of the report or disclose the contents of the report to any child.

(G) GRIEVANCE PROCEDURE

Grievances raised in connection with court-ordered investigations shall be made in writing, signed, under penalty of perjury, by the party filing the grievance, and addressed to the Judge.

(Adopted 1/1/00)

RULE 14.05 ACCEPTANCE OF HANDWRITTEN PLEADINGS FOR PRO PER PARTIES

The Judges of the Superior Court recognize that improving the public's access to the court is a high priority. The clerk's office will accept handwritten pleadings that are neat and legible in all family law matters from pro per litigants in blue or black ink. The judicial officer and/or clerk's office have the discretion to reject handwritten pleadings that are not neat or legible.

(Adopted 1/1/00)

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SECTION 15 PROBATE RULES

RULE 15.01 CAPTION OF PETITIONS AND POSTING

The caption of a petition shall be all-inclusive as to the order sought so that the matter may be properly calendared and posted, and any filing fees determined. If any part of the estate is to be distributed to a trust, the caption shall so indicate.
(Adopted 7/1/92)

RULE 15.02 SIGNING AND VERIFICATION OF PLEADINGS

Pleadings shall be signed by the attorney and each representative, trustee, guardian, or conservator. The pleadings shall be verified by a representative, trustee, guardian, or conservator personally and not by the attorney.
(Adopted 7/1/92)

RULE 15.03 ADDITIONAL NOTICE REQUIREMENTS

A copy of the petition shall be served with each notice of hearing when served on a person requesting special notice or where the petition is the accounting of a testamentary trustee. Where the fiduciary or attorney is requesting fees or commissions other than those computed by Probate Code Sections 10800 and 10810, the notice of hearing and a copy of the petition shall be served on all interested parties. The proof of service shall show service of the copy of the petition as well as the notice of hearing.
(Adopted 7/1/92)

RULE 15.04 WORDING OF PROBATE ORDER

Probate orders shall be worded so that their general effect may be determined without reference to the petition on which they are based.
(Adopted 7/1/92)

RULE 15.05 TIME FOR SUBMITTING ORDERS AND AFFIDAVITS OF PUBLICATION

All orders prepared by the moving party and affidavits of publication shall be filed or lodged with the clerk at least three (3) court days before the date of hearing.
(Adopted 7/1/92)

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RULE 15.06

UNCONTESTED MATTERS

(A) APPEARANCE OF COUNSEL (Probate Code Section 1000)

- (1) Except as otherwise provided by law, all verified petitions in probate matters may be deemed submitted without an appearance, except that the attorney or petitioner shall appear on a petition for confirmation of sale of (1) real property, or (2) personal property valued in excess of one hundred dollars (\$100). As used in this Rule, "verified" means verified by the petitioner. Before denying any petition where there is no appearance under this Rule, the court will continue the matter two (2) weeks, or until the next succeeding calendar, whichever is later, to give the petitioner or the petitioner's attorney opportunity to appear. If there is no appearance or other response by the petitioner or the petitioner's attorney at the continued hearing, the court may drop the matter from the calendar.
- (2) The petitioner or the petitioner's attorney shall appear on all petitions for appointment of guardian or conservator.

Comment: It is the responsibility of the attorney to determine whether the matter has been approved or continued.
(Amended, effective 7/1/97)

RULE 15.07

ORDER FOR FAMILY ALLOWANCE

The duration of an order for family allowance is limited to six (6) months if no inventory and appraisal has been filed, and is limited to one year if an inventory and appraisal has been filed.

Comment: The court discourages requests for retroactive (nunc pro tunc) payment of family allowance. Requests for family allowance should be made in a timely fashion.
(Adopted 7/1/92)

RULE 15.08

NONSTATUTORY FEES AND COMMISSIONS

A petition for services other than statutory compensation rendered in a probate or other proceeding shall include: (1) a declaration by the attorney, personal representative, trustee or other fiduciary of the services rendered or to be rendered by each

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of them itemizing their services by date, time and service rendered; (2) the sum requested for each item of service, together with the total amount requested for such services (and not merely "reasonable fees"); and (3) a reference in the caption and prayer to the additional fees. In determining such fees, the court shall consider the difficulty of the tasks performed, the reasonable value of time expended, the amount of the estate accounted for, and whether an accounting is waived.

(Adopted 7/1/92)

RULE 15.09 REQUIRED MATTERS IN A PETITION FOR FINAL DISTRIBUTION

In addition to items otherwise required by law, a petition for final distribution shall contain the following matters, unless set forth in the account and report:

- (A) A full and complete description of all assets on hand.
- (B) Facts specifically showing the entitlement of each heir to the portion of the estate to be distributed to that heir, including any information concerning predeceased children.
- (C) A computation of the attorney fees and representative commissions requested.
- (D) A statement regarding payment of all taxes pursuant to Probate Code Section 9650.
- (E) If the decree of distribution is to distribute assets in kind in a manner that all persons will not share equally in each asset and the distribution is other than pursuant to the will or the laws of intestate succession, then an agreement must be signed by each heir and devisee with the signatures acknowledged accepting the plan of distribution.
- (F) A schedule of claims showing the name of the claimant, amount claimed, date presented, date allowed, and, if paid, the date of payment. As to any claims rejected, the date of rejection must be set forth, and the original of the notice of rejection with affidavit of mailing to the creditor must be filed.

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- (G) The terms of any testamentary trust must be set out in full in the petition and order and not merely incorporated by reference.
- (H) An itemization of costs for which counsel has been paid or is seeking reimbursement. Ordinary overhead items, including, but not limited to, costs of duplication of documents, telephone calls, and automobile mileage are not proper cost items.
- (I) A schedule showing the proration of taxes, fees, and costs.
- (J) A statement of what property is separate and what property is community.
- (K) If distribution is to be made pursuant to an assignment of interest, the assignment shall be filed and acknowledged and the details of the consideration set forth.
- (L) If distribution is to be made to a trust, either an acknowledged statement by the trustee accepting the property under the terms of the trust, or a petition by the executor or administrator for the designation of a substitute trustee shall be filed.
- (M) If the distribution is to be made to a minor or an incompetent, either facts showing compliance with Probate Code Section 3300, et seq., or current certified copies of letters of conservatorship or guardianship of the estate shall be filed.

(Adopted 7/1/92)

RULE 15.10

REQUIRED FORM OF ACCOUNTS

All accounts filed in probate proceedings, including guardianship, conservatorship, and trust accounts, shall contain a summary or recapitulation showing:

- (A) Amount of inventory and appraisement if first account, or amount chargeable from prior account.
- (B) Amount of receipts, excluding capital items.
- (C) Gain on sales or other disposition of assets.
- (D) Amount of disbursements.

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(E) Loss on sales or other disposition of assets.

(F) Amount of property on hand.

A suggested form of summary is as follows:

The petitioner is chargeable and is entitled to the credits, respectively, as set forth in this summary of account. The following supporting schedules are attached hereto and incorporated herein by reference:

SUMMARY OF ACCOUNT

Charges

Amount of Inventory and Appraisement (or, if subsequent account, amount chargeable from prior account).	\$
Receipts During Account Period (Schedule "A").	\$
Gain on Sales (Schedule "B").	\$
 TOTAL CHARGES	 \$

Credits

Disbursements During Account Period (Schedule "C").	\$
Loss on Sales (Schedule "D").	\$
Other Credits (property distributed, homestead, or other property set apart) (Schedule "E").	\$

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Property on Hand
(Schedule "F"). \$

TOTAL CREDITS \$

The summary should be supported by detailed schedules. The schedules of receipts and of disbursements should show the nature or purpose of each item and date thereof. The schedule of property on hand should describe each item and indicate the appraised value. (Adopted 7/1/92)

RULE 15.11 PETITION TO ESTABLISH FACT OF DEATH

A petition to establish the fact of death, (terminate a joint tenancy or life estate) shall be verified and shall have attached as exhibits:

- (A) A copy of any instrument relating to any interest in the property; and
- (B) A copy of the death certificate.

Comment: There is no statutory provision for the determination by a court for attorney fees in proceedings for termination of joint tenancy or a life estate. No request for fees for services of this character should be made. (Adopted 7/1/92)

SECTION 16 JUVENILE COURT RULES

RULE 16.01 TIME LINES

Attorneys for parties are required to adhere to the statutory time lines for all hearings. Time waivers will be accepted and continuances granted only on a showing of exceptional circumstances.

(A) TIME LINES FOR HEARINGS ARE AS FOLLOWS:

- (1) **DETENTION HEARINGS** shall be heard no later than the end of the next court day after a petition has been filed; (W&IC 315; CRC 1440)
- (2) **JURISDICTION HEARING** If the child is not detained, the hearing on the petition shall be

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begun within **thirty (30)** calendar days from the date the petition was filed. If the child is detained, the hearing on the petition shall be begun within **fifteen (15)** court days from the date of the detention order; (W&IC 334; CRC 1447)

- (3) **DISPOSITION HEARING** If the child is detained, the hearing on disposition must be begun within **ten (10)** court days from the date the petition was sustained. If the child is not detained, the disposition hearing shall be begun no later than **thirty (30)** calendar days after jurisdiction is found; (W&IC 358; CRC 1451)
- (4) **SIX MONTH REVIEW HEARING** The court is required to review the status of every dependent child within six (6) months of the declaration of dependency and at least every six (6) months thereafter; (W&IC 364, 366, 366.21; CRC 1460)
- (5) **TWELVE MONTH REVIEW** The court is required to review the status of every child who has been removed from the custody of a parent or guardian within twelve (12) months of the declaration of dependency; (W&IC 366.21; CRC 1461)
- (6) **EIGHTEEN MONTH REVIEW** If the child is not returned at the twelve (12) month review, the court shall conduct a review no later than eighteen (18) months from the date of the original detention; (W&IC 366.21, 366.22; CRC 1462)
- (7) **NOTICE OF INTENT TO FILE WRIT PETITION** A notice of intent to file a petition for extraordinary writ shall be filed within seven (7) days of the date of the order setting a hearing under W&IC 366.26, with an extension of five (5) days if the party received notice of the order only by mail; (CRC 39.1B)
- (8) **PETITION FOR WRIT** A petition seeking writ review of orders setting a hearing under W&IC shall be served and filed within ten (10) days after the filing of the record in the reviewing court; (CRC 39.1B)
- (9) **RESPONSE TO WRIT PETITION** Any response to a writ petition shall be served and filed within ten (10) days after the filing of the writ petition or

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within ten (10) days of receiving a request for a response from the reviewing court; (CRC 39.1B)

- (10) **SELECTION HEARING** for Permanent Plan shall begin within one hundred twenty (120) days of the review at which reunification services are terminated and a hearing under W&IC 366.26 ordered; (W&IC 366.31, 399.22; CRC 2460, 1461, 1462)

- (11) **NOTICE OF APPEAL** A notice of appeal shall be filed within sixty (60) days after the rendition of the judgment. (CRC 39)

(Adopted 7/1/97)

RULE 16.02 EXPERIENCE, TRAINING, EDUCATION; STANDARDS OF REPRESENTATION

Every party in a dependency hearing who is represented by an attorney shall be entitled to competent counsel as defined in California Rule of Court 1438(b).

- (A) The agencies and law firms designated by the court for appointment as counsel in dependency proceedings, or the court shall be responsible for the following:
- (1) The establishment of written procedures for screening applicants seeking to represent parties, including but not limited to (1) instructions as to whom application shall be made, (2) the information required for application, and (3) the process for reviewing applications and interviewing applicants;
 - (2) The establishment of written requirements and procedures for qualification of attorneys to be included in the list of those to be appointed to represent parties, including but not limited to those requirements described in CRC 1438(b)(3) (For example: (1) demonstrated familiarity with relevant statutes and rules of court; (2) knowledge of court procedures and forms, including restraining and custody orders, transfers out, W&IC 388 motions, placement, requirements, de facto parents, participation by interested persons, including relatives and confidentiality);
 - (3) The establishment of written minimum standards of representation including, but not limited to, those described in CRC 1438(b)(4) (For example: (1)

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requirements for frequency and extent of client contact, (2) duties to assist with resolution of the case, e.g., mediation, settlement, conferences, etc., (3) duties after disposition and on-going representation, and (4) filing Notices of Appeal, Notices of Intent to File Writ Petition, and Writ Petitions);

- (4) The establishment of minimum and maximum caseloads for attorneys representing parties in dependency proceedings.

- (B) Copies of the procedure and standards described in section (1) shall be lodged with the court and made available to all juvenile and court judicial officers.
(Adopted 7/1/97)

RULE 16.03 APPOINTMENT FOR PARENTS

The court shall appoint the Public Defender to represent parents and guardians who qualify for appointed counsel.

- (A) Parents and guardians seeking appointed counsel shall be required to make oral request to the court for such appointment.
- (B) Notification of the appointment shall be communicated on the record.
- (C) Procedures for billing shall be determined by the office of the Colusa County Collector.
- (D) The court shall be responsible for assigning particular attorneys to each case.

(Adopted 7/1/97)

RULE 16.04 APPOINTMENT FOR CHILDREN

The court shall appoint the Public Defender to represent children whom the court determines would benefit from the appointment of counsel.

- (A) Appointments shall be made for all children at the time any juvenile matter is filed in the court.
- (B) Notification of the appointment shall be communicated by minute order.

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(C) Procedures for billing shall be determined by the office of the Colusa County Collector.

(D) The court shall be responsible for assigning particular attorneys to each case.

(Adopted 7/1/97)

RULE 16.05 CONFLICTS

In the event of a conflict, the court shall appoint any of the other contract Public Defenders or the District Attorney or County Counsel to represent a parent or guardian, and to represent a child.

(Adopted 7/1/97)

RULE 16.06 CLIENT COMPLAINTS

Complaints or questions by a party regarding representation shall be addressed as follows:

(A) Complaints or questions shall initially be referred to any agency or law firm appointed to represent the client.

(B) If the issue remains unresolved, or if there is no designated agency or law firm, the party may submit the complaint to the court in writing. The court may follow one of the following procedures:

(1) Conduct its own review of the complaint or question and take appropriate action if required, or;

(2) Appoint a panel of attorneys not associated with the particular case to review and comment on the complaint or question and report its findings and recommendations to the court. The court may accept or reject the recommendations of the panel or may conduct its own review, thereafter taking appropriate action as determined by the court to be necessary.

(Adopted 7/1/97)

RULE 16.07 ATTORNEY FOR THE CHILD

Counsel for the child in a dependency proceeding is charged with representation of the child's interests, including causes of action and other interests to be advanced or protected by administrative or judicial proceedings within or outside the juvenile court system.

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- (A) Absent exceptional circumstances, the attorney for the child shall have personal contact with the child regardless of age, and shall interview any child four (4) years or older so the attorney may effectively represent to the court how the child's wishes and interests may best be addressed.
- (B) The attorney for the child shall investigate any interests of the child beyond the scope of the dependency proceeding and shall immediately advise the juvenile court of information regarding any interest or right of the child to be protected or pursued in other judicial or administrative forums.
- (1) Judicial Council forms Juvenile Dependency Petition(JV-100) and Modification Petition Attachment (JV-180) shall be utilized to inform the court and request direction from the court.
 - (2) Upon receipt of the request by counsel for instructions from the court, the court shall do one or all of the following:
 - (a) Refer the matter to the appropriate agency for further investigation, and require a report to the court and counsel within a reasonable time;
 - (b) Authorize and direct the child's attorney to initiate and pursue appropriate action;
 - (c) Appoint a guardian ad litem for the child if one is required to initiate and pursue appropriate action;
 - (d) Take any other action to protect the interests and rights of child.

(Adopted 7/1/97)

RULE 16.08 INFORMATION RECEIVED BY COURT CONCERNING THE CHILD

If the court receives information regarding an interest or right of the child from a person other than the attorney for the child, the court may inform that attorney or the attorney of record for the child, of the information, and request the attorney to further investigate the matter.

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1. Procedure for informing the court, eg. JV-100 and 180, local form, letter, orally, etc.

2. Additional procedures for the court.

(Adopted 7/1/97)

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